

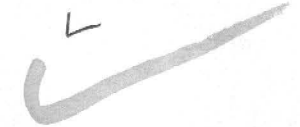


United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ELKO DISTRICT OFFICE
3900 E. IDAHO STREET
ELKO, NEVADA 89801

2: Red Rock PD

6/7/96



IN REPLY REFER TO:

4130 (NV-014)

CERTIFIED NO. Z 350 231 249
RETURN RECEIPT REQUESTED

5
received
6/7/96

PROPOSED DECISION

Wilfred R. Bailey
P.O. Box 66
HC62 Box 129
Eureka, NV 89316

Upon review of our grazing case files, we found no approved Grazing Permit to authorize your use of the public lands. In accordance with the new grazing regulations, permittees are now required to have a grazing permit in addition to their annual grazing license.

The grazing regulations require consultation, cooperation, and coordination with affected permittees or lessees, the State having lands or responsibility for managing resources within the area, and interested public prior to the issuance or renewal of grazing permits or leases. On March 14, 1996, the Bureau sent you, all affected permittees, lessees, State agencies, and all the interested public a letter explaining the need to have a grazing permit, including a listing of the terms and conditions that would apply to livestock grazing in the Red Rock Allotment. Comments pertaining to these terms and conditions were due on March 29, 1996. Red Rock Allotment is within the Diamond Hills Wild Horse Herd Area. You signed and returned the form titled "Acceptance of Terms and Conditions, and Request for Grazing Permit" on March 15, 1996.

It is my proposed decision to offer you the enclosed permit in accordance with 43 CFR 4130.2 (a) with the terms and conditions outlined below. Please review, sign, and return the enclosed permit. Upon approval of the term permit, a copy will be returned to you for your records.

Proposed Terms & Conditions

<i>Allotment</i>	<i>Livestock Number & Kind</i>	<i>Begin Period</i>	<i>End Period</i>	<i>%PL</i>	<i>Type Use</i>	<i>AUMs</i>
Red Rock	227 Cattle	4/15	11/1	100	Permitted	1500
<p><i>Terms and Conditions</i></p> <p>Actual use data on all pastures must be submitted to this office within 15 days from the last day of use.</p> <p>Supplemental feeding is limited to salt, mineral and/or protein supplements in block, granular or liquid form. Such supplements must be placed at least ¼ mile from live waters (springs and streams), troughs, wet or dry meadows, and aspen stands.</p> <p>All riparian exclosures, including spring development exclosures, are closed to livestock use unless specifically authorized in writing.</p> <p>Payment of grazing fees is due on or before the due date specified on the grazing bill. Failure to pay the grazing bill within 15 days of the due date specified on the bill shall result in a late fee assessment of \$25.00 or 10 percent of the grazing bill, whichever is greater, but not to exceed \$250.00</p>						

The term of the Grazing Permit will be from March 1, 1996 to February 28, 2006.

This allotment falls within the Diamond Hills Wild Horse Herd Management Area.

Wilfred R. Bailey is one of 3 permittees within the Red Rock Allotment. The following table summarizes the use by all other permittees in the Allotment.

Permittee	Allotment	Permitted Use	Voluntary Nonuse or Suspended Use
Merkley Ranches	Red Rock	4,618 AUMs	943 AUMs
Paris Livestock	Red Rock	1,385 AUMs	405 AUMs

Approval of the enclosed permit is consistent with the Elko Resource Management Plan. This action has also been covered by a previous National Environmental Policy Act (NEPA) analysis, the Elko Resource Management Plan and Environmental Impact Statement. An Administrative Determination of NEPA Compliance has been completed and is available at the Elko District Office.

Authority for this decision is found in 43 CFR 4100.0-8, 4110.2-2, 4130.2, 4130.3, 4160.1 4160.3 and 4160.4.

Any applicant, permittee or other interested public may protest this proposed decision under 43 CFR 4160.1, in person or in writing to Raymond G. Lister, Acting Manager, Renewable

Resources, 3900 E. Idaho Street, Elko, Nevada, 89801 within 15 days after receipt of the decision. The protest, if filed, should clearly and concisely state the reason(s) as to why the proposed decision is in error.

In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision. Any applicant, permittee or other person whose interest is adversely affected by the final decision may file an appeal and petition for stay of the decision pending final determination on appeal under the authority of 43 CFR 4160.4. The appeal and petition for stay must be filed in the office of the authorized officer, as noted above, within 30 days following receipt of the final decision, or 30 days after the date the proposed decision becomes final.

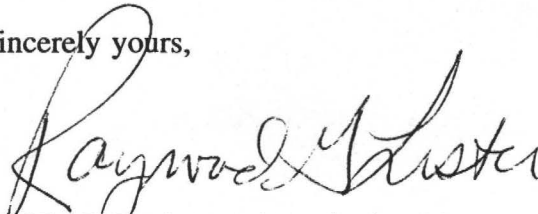
The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error.

Should you wish to file a motion for stay, the appellant shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

As noted above, the petition for stay must be filed in the office of the authorized officer.

Sincerely yours,



RAYMOND G. LISTER, Acting Manager
Renewable Resources

Enclosures: as stated above

cc: USFWS - Reno
NRDC - Johanna Wald
Nevada Cattlemen's
Nevada Division of Environmental Protection
Animal Protection Institute of America
Commission for the Preservation of Wild Horses
Ms. Kathryn Cushman
Wild Horse Organized Assistance

Resource Concepts Inc.
Sierra Club - Toiyabe Chapter
Nevada Division of Wildlife
Merkley Ranches
Paris Livestock
Ms. Ann Earl
Anna Charlton



**COMMISSION FOR THE
PRESERVATION OF WILD HORSES**

255 W. Moana Lane
Suite 207A

Reno, Nevada 89509
(702) 688-2626

June 25, 1996

Mr. Raymond G. Lister
Renewable Resources
Elko District
Bureau of Land Management
3900 East Idaho Street
Elko, Nevada 89801-4611

Subject: Red Rock 10 Year Permit - Diamond Hills HMA

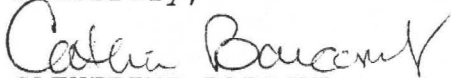
Dear Mr. Lister:

The Commission for the Preservation of Wild Horses has received and reviewed the proposed decision to issue a 10 year grazing license for the Red Rock Allotment. As the Bureau of Land Management is aware, the Commission holds an appeal to the Railroad Pass Allotment Final Multiple Use Decision that affects the Diamond Hills Wild Horse Herd. It is a matter of this appeal that the appropriate management level is below the genetic threshold and that no evidence has been presented that the northern portion of the herd management area has any applied management for the protection of wild horse habitat.

We fail to find any provision or intention to complete an allotment evaluation or multiple use decision to establish the carrying capacity for this allotment.

In light that the Bureau application of Full Force and Effect implementing wild horse actions on the adjacent allotment, we fail to find the programmatic issuance of 10 year permits appropriate.

Sincerely,


CATHERINE BARCOMB
Executive Director

cc. Wilfred Bailey, P.O. 66, Eureka, NV 89316